

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

A.P.,

Plaintiff,

vs.

WILLIAM JEWELL COLLEGE,

Defendant.

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No. 4:19-CV-00351-SRB

**DEFENDANT’S PARTIAL MOTION TO DISMISS FOR LACK OF SUBJECT MATTER
JURISDICTION AND FAILURE TO STATE A CLAIM**

Defendant William Jewell College (the “College”) respectfully moves the Court to dismiss Plaintiff’s Title IX claim (Count I) under Federal Rule of Civil Procedure 12(b)(1), to the extent the claim seeks prospective relief. Because Plaintiff is no longer a student of the College and does not plead any intent to return to the College, she fails to demonstrate standing to seek prospective relief and, therefore, this Court lacks subject matter jurisdiction to award it.

In addition, the College respectfully moves the Court to dismiss Counts III, VI, and VII of Plaintiff’s Complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Each of these counts fails to articulate a viable legal theory under Missouri law because they are predicated on the assumptions that the College had a general duty to protect Plaintiff from the criminal conduct of third-parties and that the College had a fiduciary relationship with Plaintiff, both of which Missouri law rejects.

Wherefore, for the reasons set forth in this motion, and as discussed more fully in the accompanying Suggestions in Support, the College moves the Court to dismiss Count I for lack of subject matter jurisdiction to the extent it seeks prospective relief and to dismiss Counts III, VI, and VII for failure to state a claim.

Respectfully submitted,

/s/ Derek T. Teeter

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2019, I filed the foregoing document via the Court's ECF system, which will cause a true and correct copy of the same to be served electronically on all ECF-registered counsel of record.

/s/ Derek T. Teeter

Attorney for Defendant